Z-16-43

REMEMBRANCES
Of ſome
Methods, Orders
AND
PROCEEDINGS
Heretofore uſed and obſerved
IN THE
Houſe of Lords,
Extracted out of the
Journals of that Houſe.

By *H. S.* E. C. P.

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The

Cap. I.

The first Meeting of the Parliament.

WRits being issued for Summoning a Parliament to meet at a day certain, in case the Meeting were prorogued, it was done by a Commission directed to both Houses; in which case the Lords being set in their places covered, the House of Commons sent for and come to the Bar, standing there uncovered, the Lord Chancellor or Lord Keeper being likewise (in respect he spake to both the Houses) uncovered, used to declare, That for some reasons the King or Queen had thought fit to prorogue the Parliament to a further day, and accordingly had directed a Commission under the Great Seal, which was read; and thereupon the Lord Chancellor or Lord Keeper declared the Court to be prorogued.

If the prorogation were occaſioned by ſome accident, ſo as it were put off but for a day or two (as in 2 *Eliz.* when on the day appointed the Lords being met, notice was given to the Commons, who without any apparance of their names taken by the Lord Steward and Lord Treaſurer (ſo the Entry is made in the Journal of the Commons) went up to the Lords Houſe, where the Lord Keeper declared the Queens preſent indiſpoſition of health, and had therefore ſent a Writ to adjourn till the next day) the ſame was done without a Proclamation.

But if it were prorogued for a longer time, a Proclamation was uſually iſſued: ſo 18 *Jac.* the Parliament ſummoned to meet the 16 of *January*, was by Proclamation prorogued to the 23. nevertheleſs the Lords and Commons met, and the ſame was prorogued by Writ under the Great Seal ſigned by the Kings hand, and read in the Lords Houſe; upon reading whereof the Lord Chancellor did pronounce the Prorogation. So 21 *Jacob.* 12 *Feb.* and 16 of *Feb.*

If no Prorogation were made, the Lords being met in the Houſe, ſitting in their Robes, and the King being preſent, the

the Gentleman Uſher was ſent to give notice to the Commons, who being come into the room, the King ſometimes himſelf, but commonly the Lord Chancellor or Keeper of the Great Seal, did declare the cauſe of Calling the Parliament, and did ſignifie to the Commons the Kings pleaſure, that they ſhould reſort to their Houſe, and make choice of a Speaker, and preſent him to the King at a certain day then appointed.

Cap. II.

The Sitting of the Members.

UPon the day of the Meeting of the Parliament, the Lords took their places according to the Order preſcribed in the Act of Parliament of 31 *Hen.* 8. ſaving that the Lord Chancellor or Lord Keeper did ſit on the Woolſack, as Speaker of the Houſe, and the Lord Treaſurer on the Earls Bench.

The maner of bringing into the Houſe a Member called thereto during the Parliament, or who had not ſate there before, may appear by this Entry in one Caſe.

20 *Novemb.* 1622. This day the Lord Viſcount *Colcheſter* being in his Parliament Robes, was brought into the Houſe by the Earl of *Rutland* and the Lord *Houghton*, being alſo in their Robes, *Garter* King at Arms going before, and ſo was preſented to the Lords, he delivered his Patent for his Creation to the Lord Keeper (*Garter* going before him, but the Earl and Lord *Houghton* ſtaid before the Clerks Table) and received it again immediately, and ſo he was brought and placed

placed by the ſaid Earl and Lord on the Viſcounts Bench, next the Lord Viſcount *Fielding*. Two others in like maner were brought in the ſame day.

In this was omitted one part of the Ceremony which was ſometimes uſed, that next after *Garter* King at Arms there came the Earl Marſhal, or ſome other Lord ſupplying his place.

In ſome Caſes the Patent was read by the Clerk, before the Member brought in was placed.

Cap. III.

The Speaker of the Houſe.

THe Lord Chancellor or Lord Keeper for the time being, was by his Office Speaker of the Houſe, managing the buſineſs of the Houſe.

It was his duty to declare (in caſe the King did not himſelf) the cauſe of Calling the Parliament; & in caſe of prorogation, to declare the occaſion of ſuch prorogation, and to cauſe the Writ to be read, and then to prorogue the Parliament.

In caſe the King were preſent, and did declare the cauſe of Calling the Parliament, yet ordinarily he did refer ſomething to be ſpoken by the Lord Chancellor or Lord Keeper, who did alſo declare the Kings pleaſure that the Commons ſhould reſort to their Houſe, and chuſe a Speaker, and many times appointed a time for preſenting him to the King.

In caſe of ſickneſs or other diſability of the Lord Chancellor or Lord Keeper, during the Parliament, the King did uſually direct a Commiſſion to the Lord Chief Juſtice of the Kings Bench, during pleaſure,

ſure, to ſupply the Office of the Lord Chancellor or Lord Keeper in that Houſe, and to do in all things as the Lord Chancellor or Lord Keeper ſhould or ought to do, if he were preſent. See 25 *Oct.* 8. *Eliz.* upon occaſion of the ſickneſs of Sir *Nicholas Bacon* Lord Keeper, a Commiſſion was directed to Sir *R. Catlin.*

When the Speaker did ſpeak to the Houſe, he was alway uncovered, nor was he to adjourn the Houſe, or to do any thing elſe as the Mouth of the Houſe, without the Conſent of the Lords firſt had, except the ordinary buſineſs about Bills (as preferring one Bill before another, or the like) wherein the Lords might alſo over-rule; and if therein, or in any thing elſe there were any difference, it was to be determined by a Queſtion.

If the Speaker would ſpeak to any thing in debate particularly, he was to go to his own place in the Houſe (as an Officer of State) and to ſpeak there, and then to return to the place of Speaker.

Cap. IV.

The first days work.

THe firſt work, either at the beginning of a Parliament or a Seſſion, was to read a Bill, and then to name perſons for receiving Petitions to the Houſe.

Some were appointed for receiving all Petitions for *England*, *Scotland* and *Ireland*, others for Petitions from *Gaſcoigne* and other Iſlands.

To each of theſe ſervices there were uſually appointed five perſons, of the Judges and other Aſſiſtants of the Houſe, *viz.* to each, one of the Chief Juſtices or Chief Baron, two other of the Judges, and two Maſters of the Chancery.

There were alſo appointed ſeveral Lords for Trial of theſe Petitions.

For the Petitions for *England*, *Scotland* and *Ireland*, were uſually appointed the Lord Treaſurer, Lord Preſident of the Council, Lord Admiral, and other Great Officers of State, and ſome others of the Nobility.

For the other Petitions divers Lords were appointed.

The

The names of theſe were read by the Clerk.

On this day there uſed to be appointed a Committee to review the Orders of the Houſe, and to take conſideration of the Priviledges of the Lords, and to ſee that from time to time the ſame were duly obſerved.

Of latter times a Roll was uſually read containing the Orders of the Houſe, and then other buſineſs done.

Cap. V.

Speaker of the Commons preſented.

THe Commons having choſen their Speaker, he was preſented to the King in full Parliament, (ſometimes it hath been done at *White-hall* in the preſence of the Lords and Commons, but ordinarily in the Lords Houſe) where he received approbation.

When a Parliament hath been prorogued, and the Speaker hath died in the interim, it may appear what the courſe hath been by theſe inſtances.

In the ſecond Seſſion of the Parliament held 2 *Eliz.* the Speaker of the Commons being dead, the Houſe at their meeting ſent a Meſſage to the Lords, to be a means to the Queen that they might chuſe another Speaker; which the Lords promiſed to do, deſiring ſome of the Commons Houſe, being of the Privy Council, might be joyned, and the Lords named, the Lord Keeper, the Duke of *Norfolk*, the Lord Treaſurer, and the Marqueſs of *Northampton* to move the Queen therein.

The next day the Knights, Citizens and Bur-

Burgeſſes went up to the Lords, where was read a Commiſſion directed to the Lord Keeper, to intimate the Queens Licenſe to the Houſe of Commons to proceed to the Election of a Speaker; whereupon Mr. Comptroller a Member of the Commons moved their Lordſhips, that *Richard Onſlow* Eſq; the Queens Solicitor, might be reſtored to joyn in their Election as a Burgeſs for *Steining* in *Norfolk*. Upon Conſultation had among the Lords, he was ſent down with the Queens Serjeant at Law and Attorney-General, to ſhew reaſons againſt it, becauſe of his Office and Writ of Attendance in the Upper-Houſe; but it was adjudged he was a Member of that Houſe, and was choſen Speaker.

The like was done in the third Seſſion of the fourth Parliament of that Queen, upon the death of Sir *Robert Bell* Speaker; who died during the Prorogation.

Cap. VI.

Speaking in the Houſe.

WHen any Member of the Houſe did ſpeak, he did addreſs his Speech to the reſt of the Lords in general, and not particularly to the Speaker.

He who did ſpeak ſtood up uncovered, nor was he in his Speech to name any Member of the Houſe, but by ſome reference; as, the Lord that laſt ſpake, or laſt but one, *&c.* or by ſome other ſignification.

13 *June* 1626. Ordered, *That to prevent miſ-underſtanding, and for avoiding offenſive Speeches in Debates or at Committees, all perſonal, ſharp, or taxing ſpeeches ſhall be forborn; and whoſoever anſwereth another mans ſpeech, ſhall apply his Anſwer to the matter, without wrong to the perſon.*

And as nothing offenſive is to be ſpoken, ſo nothing is to be ill taken; if the party that ſpake ſhall preſently make a fair Expoſition or clear Denial of the words that might bear an ill conſtruction.

ction. And if any Offence be given in that kinde, as the Houſe it ſelf will be very ſenſible thereof, ſo it will ſharply cenſure the Offender, and give the party offended a fit reparation and full ſatiſfaction.

CAP.

Cap. VII.

Deportment of Members and others.

NOne but Members of the Houſe might be covered in the Room called the Lords-Houſe, before the Houſe ſate, though it were the eldeſt ſon of a Peer, unleſs he were called by Writ; nor were any other perſons to ſtay there, nor any Attendant of any Nobleman, longer then whiles he brought in his Lord, and then retired.

The firſt or ſecond day the Houſe was uſually called, and notice taken of ſuch as were abſent, who had not either ſent their Proxies, or were not excuſed by the King for ſome time.

After the General Meeting, every Member coming after Prayers, was to pay a Mulct to the poor, which was ſet by Order of the Houſe.

None might abſent himſelf at any time from the Houſe, without making an excuſe by ſome Member of the Houſe; which Excuſe if diſallowed, the perſon was either ſent for or reprehended when he came. By Order of 25 *Febr.* 1625.

he

he was to pay Five ſhillings to the poor for every days abſence.

When the Houſe was ſet, every Member that entred was to give and receive Salutations from the reſt, and not to ſit down in his place till he had made obeyſance to the Cloth of Eſtate.

The Members were to keep their dignity and order in ſitting as much as might be, and not to remove out of their places without juſt cauſe, to the hinderance of others that ſate near them, and diſorder of the Houſe; but when they muſt needs go croſs the Houſe from one ſide to the other, they were to make obeyſance to the Cloth of Eſtate.

By Order of 23 *May* 1628. none but Noblemen and the neceſſary Attendants of the Houſe, were to come into the Lobby, nor the little Committee-Chamber.

If any Lord conceived himſelf to have received any affront or injury from any other Member of the Houſe, either in the Parliament-Houſe, or at any Committee, or in any of the Rooms belonging to the Lords Houſe, he was to appeal to the Lords in Parliament for his Reparation; which if he ſhould not do, but occaſion

occaſion or entertain Quarrels, declining the Juſtice of the Houſe, then he ſhould undergo the ſevere Cenſure of the Houſe; which was ordered to be a ſtanding Order of the Houſe, 9 *Auguſt.* 1641.

CAP.

Cap. VIII.

Judges and Assistants.

THe Reverend Judges, or such of the Privy Council as were called by Writ to attend the House, did sit on Woollsacks, but were uncovered until the Lords gave them leave, which they did ordinarily signifie by the Lord Chancellor or Speaker: nor did they speak at any time, or deliver any Opinion until the same were required, and they were admitted so to do by the major part of the House, in case of difference about it.

The Judges were often appointed to be assisting unto Committees of the House upon Bills and other matters: in which Cases if the Committee refer any thing to the consideration of the Judges, they were to make report thereof to the Committee, and the Committee to report it to the House. This was agreed for an ancient Order of the House, *May* 4. 1624.

Sometimes the House hath referred it to the Judges, sometimes to the Kings Council Learned, to draw Bills in special Cases, sometimes to prepare Amendments to Bills, upon Debates in the House.

39 *Eliz.* 26 *January.* Upon reading a Bill for increaſe of People for ſervice and defence of the Realm, the ſame being diſliked, it was referred to the Judges, eſpecially the Lord Chief Juſtice, to draw a new Bill.

27 *January.* Amendments drawn by the Lord Chief Juſtice to a Bill *againſt decaying of Timber and Houſes of Husbandry*, were read and allowed, and the Bill ordered to be ingroſſed.

The Kings Learned Council were Ordered to prepare a Bill, *to make the Land of the Earl of* Middleſex *ſubject to his Debts, to be liable to anſwer his Fine* 13 May 1624.

43 *Eliz.* 12 *Dec.* Mr. Attorney-General reports a Conference with Committees of the Commons Houſe, touching Amendments to a Bill for Patents.

CA

Cap. IX.

Clerk of the Houſe.

THe Clerk was to enter no Order until the Lord Chancellor (or other Speaker) firſt demand the Aſſent of the Houſe.

20 *May* 1626. The Clerk is to read every Order firſt in the Houſe before it be entred.

14 *December* 1621. The Houſe was moved that no Motion be entred as an Order, unleſs the Lord Keeper do firſt demand the Opinion of the Court, whether the ſame ſhall be allowed of as an Order or no, and then the ſame to be ſet down as an Order and read, which was well approved of.

Cap. X.

Bills and their readings.

Bills have had their riſe either in the Commons Houſe, and ſo after they were ingroſſed in Parchment, were ſent up to the Lords by ſome of the Members of the Commons Houſe, or elſe they did originally begin in the Lords Houſe, whereof there are Preſidents of all ſorts (except Bills of Subſidy, or to charge the People) eſpecially Bills of Grace; as for Naturalization, Reſtitution in Blood, *&c.* in which caſe they were preſented in paper.

At the firſt reading it was uſually let paſs without being ſpoken unto, unleſs it were for the rejection of it; but upon the ſecond reading every Member had leave to ſpeak, and then upon Motion it was committed.

In any Debate upon a Bill, no man might ſpeak twice at the ſame reading of it, nor to any Propoſition, unleſs for explaining himſelf in ſome material part of his former Speech, and that without adding any new matter; nor was ſuch explanation

planation admitted without leave of the Houſe firſt obtained.

When any queſtion was put, he who ſate loweſt began firſt to declare his mind, and ſo the reſt every one in his turn, which he did by riſing up uncovered, and ſaying, *Content*, or *Not content*: and if there were a doubt, it was determined by Poling, not by dividing the Houſe.

Two perſons are appointed by the Lords to count the numbers.

Upon the paſſing of a Queſtion, any Member of the Houſe might enter his diſſent. The time given for doing it, appears by an Order 5 *March* 1641. That ſuch Lords as ſhall make Proteſtation, or enter their Diſſents to any Votes of that Houſe, ſhould make their ſaid Proteſtation, or give direction to have their Diſſents entred into the Clerks Book the next ſitting day of the Houſe, or elſe the ſaid Proteſtation or Diſſent to be void and of none effect.

At the ſecond reading of a Bill [That the Lord *Mountjoy* might diſpoſe of his Lands whereof he is Tenant in Tayl, as other Tenants in Tayl may do, by the Laws and Statutes of the Realm, a private Statute of 27 *Hen.* 8. to the con-

trary notwithſtanding.] Upon motion of the Lord Marqueſs of *Wincheſter*, it was ordered the Cauſe ſhould be heard openly in the Houſe on Monday then next, by Council learned on both ſides.

CAP.

Cap. XI.

Concerning Committees.

COmmittees were uſually appointed for Bills, to the end there might be more freedom of Debate, as likewiſe upon other occaſions of great buſineſs, to prepare the ſame for the Houſe.

Theſe Committees are either particular perſons named for that purpoſe, or the whole Houſe turned into a Committee. If it were deſired by any Lord that the Houſe might be put into a Committee, it ought not to be refuſed, *per* Ord. *April* 18. 1626.

When the Committee of the whole Houſe did ſit, the Lord Chancellor or Lord Keeper did not ſit upon the Woollſack as Speaker, but in his proper place. Every Lord was to ſit in his due place whiles the Houſe is put into a Committee. If the Committee were of fewer number, they met in the Painted Chamber, or the little Room adjoyning.

Whiles any of the Committee did ſpeak to the reſt, he did it uncovered, but might ſit ſtill if he pleaſe.

If any of the Judges or Learned Council were appointed by the Houſe to attend ſuch Committee, they were not to ſit or be covered, unleſs it were out of favor for infirmity ſake; in which caſe ſometimes ſuch Judge had a ſtool ſet behinde, but uncovered.

Committees have power by the ancient Orders of the Houſe, to adjourn themſelves *de die in diem*, as often as they pleaſe. 19 *March*, 1623.

Cap. XII.

Proceeding on Bills.

WHen Amendments were reported to a Bill, they were twice read, and if approved, the Queſtion was put for the Ingroſſing the Bill ſo amended. The firſt perſon named to be of a Committee made Reports from that Committee. Sometimes Amendments reported, were referred back to the ſame Committees to be reviewed; as in the Amendments to the Act for Erecting Houſes of Correction. 39 *Eliz.*

2 *November* in the Parliament begun in 43 *Eliz.* Amendments were reported to a Bill for Aſſurances of Lands. One of the Committees offered to ſpeak to the Bill, and to the Amendments; thereupon a doubt was raiſed whether it might be done by the Orders of the Houſe: and upon long Debate and Queſtion, it was agreed, that any Committee might ſpeak in like caſe, either to the Body of the Bill, or to the Amendments, upon bringing them in before the Bill be ingroſſed.

21 *Novemb.* in the ſame Parliament, upon

upon reading the third time an Act for Aſſurances of Lands, objections were made to ſome points of the Bill. The Houſe was divided in opinion whether it ſhould be re-committed, which was put to the Queſtion. The numbers being equal (being told by the Biſhop of *London* and the Lord *Gray*, appointed by the Lords for that purpoſe) it was adjudged the Negative ſhould prevail, following therein the Rule of Law whereof the Lord Keeper made mention, that where the numbers of *Affirmatives* and *Negatives* are equal, *ſemper præſumitur pro negante*, and afterwards the Bill being put to the Queſtion for paſſing, was rejected.

After a Bill was ingroſſed, the Clerk ought to indorſe the Title thereof upon the back of the Bill, and not within: for want whereof, divers Bills ſent to the Commons, have been returned to be amended, as appears by the Journals of the Commons Houſe, 27 *Eliz.* 19 *December*, 13 *Eliz.* 27 *May*, 39 *Eliz.* 24 *October*, 4 Seſſ. 1 Par. *Jac.* 5 *May*.

If the Bill paſſed were originally begun in the Commons Houſe, then ought the Clerk to write upon the ſame when it paſſed, *A ceſte Bille les Seigneurs ſont aſſentus*.

If

If it begun originally in the Lords Houſe, the ſame was ſigned thus, *Soit Baille aux Communs.*

If any Proviſo in Parchment were added thereunto, after it were ingroſſed, then the Bill was to be ſigned thus, *Soit Baille aux Communs, avecque un Proviſion annex:* and the Proviſo it ſelf was ſigned thus, *Soit Baille aux Communs.*

The like Rule was obſerved when any Addition (which containeth in it another Clauſe) or Branch of the Bill was deſired to be Enacted and Agreed after the Bill was ingroſſed, ſaving that in this caſe in ſtead of the word *Proviſion*, the word *Schedule* was inſerted.

Bills coming from the Commons have likewiſe three readings in the Lords Houſe, in ſuch ſort as Bills originally begun there.

If upon the ſecond reading the ſame were committed, the Amendments were to be ſet down in paper by the Committee, with reference to the Line and the Words between which it is to be inſerted, and ſo to be reported to the Houſe, and if the Houſe approve them, or make any alterations in them, then the ſame Amendments as they are agreed, are to be ſent with

with the Bill to the Commons, to be accordingly by them amended, if they think good.

When a Bill is paſſed in either Houſe, that Houſe wherein the Bill remaineth, may deſire Conference with the Houſe that paſſed the Bill, if they think good, and not otherwiſe. So it was inſiſted on by the Commons in a Conference, 18 *Eliz.*

Cap. XIII.

Meſſages and Conferences.

THe meeting of the Houſes was either upon occaſion of Meſſages, or upon Conferences.

When a Meſſage was ſent up from the Commons by ſome of their Members, notice thereof was given to the Houſe by the Uſher; and when the buſineſs in debate was ended, the Meſſengers were admitted in maner following: The Lords ſitting all covered, the Meſſengers being entred into the Room, ſtood at the lower end thereof, then the Lord Chancellor, with ſuch other Members as pleaſed, went down from their places to the middle of the Bar, whither the Meſſengers came, and after three courteſies delivered their Meſſage to him, who having received it, retired to his former place, and the Meſſengers withdrew.

The Houſe being cleared and ſetled, the Lord Chancellor reported the ſubſtance of the Meſſage to the Houſe, any of the Members who went down with him, might help his memory, or rectifie

rectifie him, if any thing were miſtaken.

After the Lords had taken reſolution, if the buſineſs required any Anſwer, the Meſſengers were either called for in, who approaching to the Bar with their three courteſies as before, (the Houſe ſitting in order and covered) the Lord Chancellor ſitting upon the Woolſack covered, gave them their Anſwer in the Name of the Houſe; or elſe if the reſolution were not ſpeedy, word was ſent by the Uſher that they ſhould not need to ſtay for an Anſwer, but the Houſe would ſend it by ſome expreſs Meſſengers of their own.

No Members of the Houſe were at any time ſent to the Commons upon meſſage, but either ſome of the Learned Council, Maſters of the Chancery (who are there to attend) or, in weighty Cauſes, ſome of the Judges; but the Commons ſend no meſſage but by ſome of their own Body.

In caſe of Conference with the Commons, ſuch as were ſent from that Houſe at the time and place appointed by the Lords (which was uſually the Painted Chamber) being come thither, the Lords came to them all at once, and not ſcatteringly, which might take from their gravity, and prevent their places: The Lords

did

did ſit there covered, the Commons did ſtand bare during the time of the Conference.

None were to ſpeak at ſuch Conference but thoſe that were of the Committee, and whiles any thing that hath been committed is reported, all the Lords that were of that Committee were to ſtand up.

At any Committee of the Lords, any Member of that Houſe, though not of the Committee, might be preſent and ſpeak, but had no Vote: as alſo he was to give place to all that were of the Committee, though of lower degree, and to ſit behinde them: The ſame order was to be obſerved for ſitting at Conferences with the Commons.

No man might enter either when the Houſe ſits, or at any Committee or Conference (unleſs ſuch as were commanded to attend) but Members of the Houſe, upon pain of being puniſhed.

19 *Jan.* in the Parliament begun 39 *Eliz.* ſeveral Members of the Commons were ſent with a Meſſage to the Lords, to receive ſatisfaction from the Lords touching an Innovation lately begun (as it was ſaid) in that Houſe, that an Anſwer to a Meſſage from the Commons, was given by

by the Lord Keeper ſitting in his place, and all the Lords keeping their places, and not going down to the Bar as their uſe and form hath been. Upon long debate it was reſolved by the Lords, That it was the Order and Uſage of the Houſe, when any Bills or Meſſages are brought from the Commons to the Lords, the Lord Keeper and the reſt of the Lords, are to ariſe from their places, and to go down to the Bar, there to meet ſuch as came from the Commons, and to receive in that place their Meſſage and Bills; But contrariwiſe when any Anſwer was to be delivered in the Name of the Houſe to ſuch Knights, Citizens and Burgeſſes as came from the Commons Houſe, the ſaid Knights, Citizens and Burgeſſes ſtanding at the lower end of the Houſe without the Bar, the Lord Keeper is to deliver the ſame Anſwer ſitting in his place with his head covered, and all the Lords keeping their places (the Archbiſhop, Lord Treaſurer, Lord *North*, Lord *Buckhurſt*, and eſpecially the Lord Treaſurer, who was the eldeſt Parliament man, affirming this to be the ancient courſe) With which Anſwer after ſome Conferences with the Commons, they were ſatisfied.

CAP.

Cap. XIV.

Sending Amendments from one Houſe to the other.

WHen the Lords ſend down Amendments to a Bill ſent from the Commons, the Bill it ſelf is not to be amended, but the Amendments are to be ſent in paper, expreſſing in what Line and between what Words they deſire the Amendments to be made, and the Bill with the paper affixed thereunto, is to be ſent to the Commons to be accordingly amended, if the Commons think good.

39 *Eliz.* 19 *December.* The Amendments to the Bill for Laborers were ſent to the Commons ingroſſed in Parchment, and for that Cauſe were returned by the Commons without allowance; Thereupon the Lords Ordered them to be written in paper, and ſo ſent down.

Where there is a Schedule of Additions, or a Proviſo that ought to be ſent in Parchment, and this ſubſcribed, *A ceſte Bille avecque les amendments les Seigneurs ont aſſentus.*

If the Lords, for explanation of any

Sentence in queſtion, do adde words to the addition of the Commons, without putting out of any part of that which is required to be added or altered by the Commons, the ſame is to be ſet down in writing by the Lords, and ſent to the Commons together with the Bill; if the Commons do allow thereof, they are to adde the words required by the Lords paper, and ſo return the ſame to the Lords, who thereupon did enter it into their Bill ingroſſed.

Amendments ought always to be in that Houſe, from which the thing to be amended originally proceedeth, though the directions for the Amendments came from the other Houſe.

This alſo is a general Rule, that neither Houſe may put out any thing which they have before paſſed, otherwiſe then at the requeſt of the Houſe who hath not paſſed the ſame.

In the Parliament wherein Mr. Serjeant *Snagge* was Speaker, it was uſual when either Houſe deſired the clear paſſing of any Bill, ſent unto them from the other Houſe, in which they thought fit to make Alterations, to acquaint the Houſe from whom it came, with the Alterations

terations which they intended to make; and to desire to know their willingness thereto, thereby to prevent the hazard of the Bill, if perhaps they should make Alterations not approved of.

In like sort they sometimes used Conferences, onely to prevent the casting away of Bills, for some small difference about the Amendments.

The Lords by a Message without any paper sent, have been prayed by the Commons to amend the sense of some of their Amendments, that so the House might further proceed therewithal; which hath accordingly been performed, and then their Amendments have been considered, allowed and returned. 23 *Eliz.* 17 *Martii.* Bill touching Scottish Orders.

13 *Eliz* in the Bill against Vagabonds; it was resolved by the Commons, That certain Words required by the Lords to be put out, should stand qualified with other Words, with condition that if the Lords should not agree to the said qualification, the Commons would not be bound by that resolution; which was done of purpose to avoid the hazard of the Bill, in case the Lords should not agree thereto.

2 & 3 *Phil. & Mar.* The Bill for Exactions of Muſters had a Proviſo annexed by the Commons Houſe, and the Lords returned the Bill, deſiring the Proviſo annexed might be taken off, and a new deviſed by themſelves put in place thereof.

27 *Eliz.* 13 *Martii.* The Bill touching the Sabbath, which upon divers Conferences received ſeveral Additions, Alterations and Amendments of Amendments, by means whereof the ſame was much defaced, was ſent down by the Lords, and prayed by them that it might be new written (the ſame coming originally from the Commons) which was done, and ſo it paſſed again in both Houſes.

25 *Eliz.* 31 *Martii.* The Bill againſt Popiſh Recuſants firſt paſſing from the Lords, was returned with Amendments, which the Lords aſſented unto, and ſent down the ſame again amended by them accordingly, and alſo a Proviſo annexed thereto to be paſſed, if the Houſe ſhould think good, which the Commons yielded to, and paſſed the ſame accordingly.

This is a remarkable preſident, that a Proviſo ſhould be added by them who firſt paſſed the Bill, without reference to

any

any Alteration or Amendment inſerted by direction from the other Houſe.

20 *March* 1624. An Act touching Hoſpitals being begun in the Lords Houſe, and been twice read and committed, and Amendments reported, and the Bill ingroſſed, upon the third reading there appeared ſuch defects in the Bill, as the Houſe reſolved to lay it aſleep, and Ordered Mr. Attorney-General to prepare another; but ſome days after the Houſe being informed that it was againſt the orders of the Houſe to let a Bill ſleep; but rather it ſhould be ſent to the Commons with a note of the Defects, and a Commendation of a Supply of them: the Judges were appointed to conſider of the Defects of the Bill, and the Remedies; which they having reported, the Bill was ſent down with a ſpecial Meſſage touching the Defects, and the ways to ſupply them, by the Commons.

Cap. XV.

Sending of Bills from one Houſe to the other.

Bills ſent from the Lords to the Commons, if they were ordinary Bills, were uſually ſent down by the Serjeants at Law, or Maſters of the Chancery, accompanied ſometimes with the Clerk of the Crown.

Bills of greater moment were uſually ſent down by ſome of the Judges, aſſiſtants there, accompanied with ſome Maſters of the Chancery, who being admitted, came up cloſe to the Table where the Clerk ſitteth, making three Congies, acquainting the Speaker that the Lords have ſent unto the Houſe ſeveral Bills, and read the Titles and delivered the Bills to the Speaker, and ſo departed with like Ceremony.

Bills ſent from the Commons, are ſent by one Member of that Houſe to whom they were delivered (who was uſually attended with thirty or forty of the Houſe) who came in the firſt rank of his company, to the Bar of the Lords Houſe,

Houſe, with three Congies, and acquainted the Lords, that the Knights, Citizens and Burgeſſes of the Commons Houſe, had ſent unto their Lordſhips certain Bills; and then reading the Title of every Bill as it lieth in order, ſo delivered the ſame unto the Lord Chancellor or Keeper (or other who is Speaker) who with the reſt of the Lords came to the Bar to receive them.

Cap. XVI.

Touching the Royal Aſſent.

WHen Bills were paſſed both Houſes upon three ſeveral readings in either Houſe, all the Bills were preſented to the King for His Aſſent; which was uſually deferred til the laſt day of the Seſſion, though it may be given at any time during the Parliament. And where it hath been doubted whether ſuch Aſſent given to any one Bill, doth not *ipſo facto* conclude that preſent Seſſion(which if it did, then every other Bill to which the Royal Aſſent is not given (though it have paſſed both Houſes) ought to be again read three times in either Houſe, and to be proceeded in as if nothing had been done therein, and ſo all other Acts of the Houſe) ſome Declarations have been made, that ſuch Aſſent did not determine the Seſsion. So in 1 & 2 *Philip* and *Mary*, 21 *November*: and in the laſt Seſsion of the firſt Parliament of King *James*; nevertheleſs it is uſual by ſome particular Bill or Proviſo, to have the ſame Enacted.

The

The Royal Aſſent was either given by Commiſsion, according to the Statute of 33 *Hen.* 8. (which hath been frequently done) or elſe in perſon; in which caſe the King being come to the Lords Houſe and ſitting there, and the Lords being in their Robes, and the Commons come to the Bar, the Speaker of the Commons uſually bringing with him the Bill of Subſidy onely (all other Bills being ſent up to the Lords before) and preſenting the ſame with a Speech: The Clerk of the Crown did read the Title of the Bills in ſuch order as they are in conſequence. After the Title of each Bill is read, the Clerk of the Parliament pronounceth the Royal Aſſent according to ſuch Inſtructions as he had in that behalf received from the King.

If a Publique Bill were aſſented unto, the Anſwer was:

Le Roy le Veult.

If a Private Bill allowed by the King, the Anſwer was:

Soit fait come il eſt deſire.

If a Bill not aſſented to:

Le Roy ſe aviſera.

To

To the Subſidy Bill:

Le Roy remercii ſes Loaulx Subjects, accept lour benevolence, & auxy le veult.

To the General Pardon:

Les Prelates, Siegneurs & Communs en ceſt Parliament aſſembles au nome de touts vous auters Subjects remercient tres humblement voſtre Majeſty, & prient Dieu vous doner en ſonte bone vie & longe.

CAP:

CAP. XVII.

Priviledge of the Lords, as to Suits againſt them and their followers.

THe Priviledges or ſpecial Rights belonging to the Baronage of *England*, (which includes all who were ſummoned to Parliament, wherein they had place and voice as incident to their Dignity) did concern them as they were one Eſtate together, or as every of them was privately a ſingle Baron.

Of the firſt kinde were moſt obſervable:

1. Their Priviledges in Suits, as well for their followers as for themſelves, during the Parliament.

2. That none of them ſhould be ſubject to be queſtioned before the Houſe of Commons onely.

3. Their Juriſdiction in matters of { Offences { Capital. / Not capital ; Errors in Courts.

I. Their Priviledges in Suits appears thus: That whereas in a Bill under *Henry* the Fourth it is ſhewed, that the Lords, Knights *&c.* and their Men and Ser-

Servants &c. by the cuſtom of the Realm were not to be arreſted, or otherwiſe impriſoned; and it was prayed, if any be, the parties offending may make Fine and Ranſom, and give Damages &c. The Anſwer thereunto is given in theſe words:

Y ad ſufficient remedy en le cas.

In the Parliament 1 *Eliz. John Broxham* being Plaintiff in an Aſsize in the County of *Lincoln*, againſt the Lord *Willoughby*, an Injunction was ordered to go out of the Chancery *Sub pœna* 500 l. that the Plaintiff ſhould not proceed to Trial. *February* 21.

18 *Edw.* 1. A Citation out of the Eccleſiaſtical Court was ſerved on the Earl of *Cornwal*, as he was going to Parliament, at the Suit of *Bogo de Clare*, and the Prior of the Holy Trinity in *London*; for which the ſaid Earl ſued the parties, and recovered 1000 Marks damages.

Upon a Petition to the King in the ſame Parliament by the Maſter of the Temple, praying Liberty to Diſtrain for Rent due to him for a houſe which the Biſhop of St. *Davids* held of him, alleadging that he could not Diſtrain during the Parliament. The King gave this Anſwer: *Non videtur honeſtum quod Rex con-*

concedat quod illi de Consilio suo distringantur tempore Parliamenti, sed alio tempore distringat per ostia & fenestras prout moris est.

No Lord of Parliament, sitting the Parliament, or within the usual times of Priviledge of Parliaments, was to be imprisoned nor restrained without Sentence or Order of the House, unless it be for Treason or Felony, or for refusing to give Security for the Peace. 18 *April* 1626.

How far the Priviledge of the Nobility doth extend, concerning the Freedom of their Servants and Followers from Arrests, is set down in several Resolutions of the House, and a Report of a special Committee appointed for that purpose, *viz.* That it extends to all their Menial Servants, and those of their family, as also those imployed necessarily and properly about their Estates, as well as their Persons. That this Freedom is to begin from the date of the Writ of Summons in the beginning of every Parliament, and to continue twenty days after the Parliament.

Before any person be sent for upon Breach of this Priviledge, the Lord whom the person arrested doth serve, shall by Word,

Word, Letter or other Meſſage, certifie the Houſe upon his Honor, that the perſon arreſted is within the Limits of the Priviledge aforeſaid. If upon examination it appear otherwiſe, the Member was to be reproved, and the party complaining to pay the Fees of the party ſent for, and to have no benefit by the Priviledge. 28 *May* 1624.

The Goods of priviledged Perſons taken in execution, were to be re-delivered and freed as well as the perſon. 8 *May*, 1628.

The King having declared his Reſolution to adjourn the Parliament from the fourth of *June* 1621. to the fourteenth of *November* following, it was moved in the Houſe, that the Lords followers might during the Seſsion have priviledge from Arreſts; which was referred to the Judges to adviſe thereof, and deliver their opinions therein.

4 *June* 1621. The Lords the Judges delivered their opinions touching the Priviledge of the Houſe during the Seſsion of Parliament, the Lords repair hither, and their return; but for that it hath not happened to their knowledge, that heretofore the Houſe hath been adjourned for ſo long

long time as now it is intended, they could not ſatisfie their Lordſhips of any Preſidents of the Continuance of their Priviledges during all the time of the long Seſsion. Whereupon the Lords delivered their opinions, and Ordered it ſo to be entred, That the Lords do know that the Priviledges of Themſelves, their Servants and Followers do continue, notwithſtanding the Adjournment of the Parliament, and do Order and Adjudge the ſame to be obſerved in all points accordingly; and that a Copy of this Order be ſent to both the Counters, and to be publiſhed.

Upon Complaints made againſt any perſon for arreſting any Servant of the King, or of any of the Lords contrary to the Priviledge, the Offenders were uſually ſent for by the Serjeant at Arms, and brought to the Bar; and if upon examination it appeared to be done knowingly, they were committed during the pleaſure of the Houſe, who upon Petition and Submiſſion of the party, did afterwards diſcharge them.

However the perſon arreſted was either ſent for by Warrant of the Houſe, if it were on mean Proces; or if upon Execution, then by *Habeas Corpus cum cauſa*, and

and the Priviledge appearing, were ſet at liberty by the Houſe.

39 *Eliz. William Vaughan* ſervant to the Earl of *Shrewſbury*, was contrary to the Priviledge taken in Execution: The Keeper of *Newgate* was Ordered to bring him before the Lords in Parliament; he refuſing, Preſidents were directed to be viewed, and upon a conſideration of them an Order was made, That the Lord Keeper ſhould cauſe a Writ of *Habeas Corpus cum cauſa* to be iſſued for bringing him, which was done accordingly.

21 *Jacobi.* Upon Complaint that *John Philips* Eſquire, one of the Kings Servants was arreſted contrary to the Priviledge, an *Habeas Corpus cum cauſa* was Awarded; upon which he was brought to the Bar, and releaſed by the Court.

14 *March.* 21 *Jacobi. Edward Terringham* Servant to the Lord *Cromwel*, being arreſted on mean Proces, a Warrant was ſigned by the Clerk to the Serjeant at Arms to bring him before the Lords, and being brought the Fifteenth of *May*, he was diſcharged.

The

The ſame day *Wellisborn Sill* ſervant to the Earl of *Holderneſs*, being taken upon an Execution, was upon a Writ of *Habeas Corpus cum cauſa* brought to the Bar and diſcharged, and the party at whoſe Suit he was arreſted, was committed.

Cap. XVIII.

Peers not to anſwer in the Commons Houſe.

THat no Peer was to anſwer in the Houſe of Commons, ſome inſtances are to be ſeen in a Complaint of *Thomas Philips* againſt the Biſhop of *London*, 25 *H.* 8. in the caſe of the Biſhop of *Briſtol*, who had written a Book about the Union between *England* and *Scotland*, which was conceived to intrench on the honor of both Houſes, & was complained of by the Commons in the Lords Houſe, as they acknowledged in their Meſſage he ought to be. 1 *Jac.* 26. and 31 *May.*

Yet in *April* 1624. the Commons being upon a Charge in their Houſe againſt the Earl of *Middleſex* Lord Treaſurer, upon his deſire to the Commons that he might firſt be heard, the Lords gave him leave to ſend his Anſwer to that Houſe in writing; but at the ſame time it was ſet down as an Order, That no Lord of their Houſe might without leave of the Houſe anſwer any Complaint in the Houſe of Commons, neither in perſon nor by his Council. 12 *April* 1624.

Cap. XIX.

The Power of Judicature.

For the Juriſdiction or Power of Judicature, in caſes as well Capital as not Capital, tending to the publique miſchief of the State, many inſtances are found.

1. Of Capital Offences in the caſe of *John Mantravers*, accuſed for being guilty of the death of *Edmond* Earl of *Kent*, uncle to *Edward* the third, he had Judgement to be drawn and hanged as a Traitor, 4 *Ed.* 3. M. 7. N. 3.

William Weſton had the like Judgement to be drawn and hanged for delivering up Caſtle, 1 Rec. 2.

And in the ſame Roll is a Judgement againſt *John Sire de Gomenys*, to be beheaded.

Of Offences not Capital.

John Atlee accuſed of ſeveral Offences to the wrong of the King and his Liege people, 42 *Edw.* 3. to which he could make no ſufficient excuſe, he was commanded to the Tower, there to remain in priſon until he ſhould make Fine and Ranſom at the Kings pleaſure.

Richard Lyons accuſed by the Commons of ſeveral Deceits, Extortions and other evil deeds againſt the King and his people, *viz.* Procuring Patents for private Advantage, New Impoſitions to be laid without Parliament *&c.* for which he was adjudged to priſon, to be put to Fine and Ranſom at the Kings will, that he looſe his Freedom in the City of *London*, that he never be more in Office, nor approach the Council, nor the Kings Houſe; and afterwards as an addition to the ſaid Judgement, it was awarded by the Lords That all his Lands, Tenements, Goods and Chattels ſhould be ſeized into the hands of the King, and his body committed to priſon during the kings pleaſure. 50 *Ed.* 3. M. 2. Num. 17.

William Lord *Latimer* accuſed by the Commons of divers Deceits and Exactions, and for procuring and counſelling the King to grant Patents againſt the Laws, new Impoſitions *&c.* he was adjudged to the Marſhalſey, and to pay Fine and Ranſom at the will of the King *ibid.* N. 21.

7 *R.* 2. *Michael de la Pool* Chancellor of *England* being complained of by *John Cavendiſh* for Bribery, it appearing that

the accuſer had calumniated the Chancellor, ſhe was committed.

Upon a Charge againſt Sir *Giles Mompeſſon* Knight, for the undue execution of a Grant, for the ſole Manufacture of Gold and Silver-Threed, and of a Grant for Concealments.

The Lords gave Judgement againſt him 26 *March*, 1621. That he ſhould ſtand and be henceforth degraded of the Order of Knighthood, with reſervation of the dignity of his Wife and Children, the Ceremonies of Degradation to be executed by the direction of the Earl Marſhals Court when ever he ſhould be taken.

That he ſhould ſtand perpetually in the degree of an Outlawed perſon for miſdemeanor and treſpaſs.

That his teſtimony ſhall be received in no Court, he ſhould be of no Aſſize, Inquiſition or Jury.

That he ſhould be excepted out of all General Pardons hereafter to be granted.

That he ſhould be impriſoned during life.

That he ſhould not approach within twelve Miles of the Kings Court, nor of the Courts of *Weſtminſter*.

That the King ſhould have all the Profits of his Lands for life, that all his Goods and Chattels ſhould be forfeited, that he ſhould undergo Fine and Ranſom, which the Lords aſſeſſed at ten thouſand pounds. That he ſhould be diſabled to hold any Office, that he ſhould be held an infamous perſon.

The Lord Chancellor *Bacon* upon a Charge againſt him for Bribery and Injuſtice, the Lords gave Judgement againſt him 3 *May* 1621.

That he ſhould undergo Fine and Ranſom, which was aſſeſſed at 40000 *l.*

That he ſhould be impriſoned in the Tower during the Kings pleaſure.

That he be for ever uncapable of any Office, Place or Imployment in the State or Commonwealth.

That he ſhould never ſit in Parliament, nor come within the Verge of the Court.

The Earl of *Middleſex* Lord Treaſurer, upon a Charge againſt him of Bribery, for Altering the good Laws of the Court of Wards, to the deceit of the King, oppreſſion of the people, and enriching of his own ſervants, and other Crimes.

Th

The Lords gave Judgement againſt him 13 *May* 1624.

1. That he ſhould loſe all his Offices.

2. That he ſhould be uncapable of holding any hereafter.

3. That he ſhould be impriſoned during the kings pleaſure.

4. That he ſhould be Fined 50000 *l.* to the king, that he ſhould never ſit in Parliament hereafter, nor come within the Verge of the Court.

The Kings Council Learned were Ordered to draw a Bill to make his Lands lyable to Debts, and lyable to pay the ſaid Fine. Damages were alſo given to ſeveral perſons wronged.

Of this ſort are many inſtances of later times: as in the Caſe of Sir *John Bennet*, Sir *Henry Yelverton*, Doctor *Montagu* and others.

Some examples there are of Cenſures for corporal puniſhment: as,

26 *May* 1621. *Edward Floud* a Lawyer, being accuſed of Scandalous Words tending to the diſgrace of the *Palſgrave*, was after examination brought to the Bar, and charged by Mr. Attorney-General, and cenſured as followeth:

That he ſhould be uncapable to bear

Arms as a Gentleman, that he ſhould be held for an infamous perſon, his teſtimony ſhould not be taken in any Court or Cauſe.

That he ſhould ride on horſe-back with his face towards the horſe tayl, holding the tayl in his hand to *Cheapſide*, and there to be ſet on the Pillory, and branded with the Letter *K*.

That on another day he ſhould be whipped at a Carts tayl, from the *Fleet* to *Weſtminſter Hall*.

That he ſhould pay 5001. Fine, and be impriſoned during pleaſure.

The Clerk ſigned a Warrant to the Serjeant at Arms, and Warden of the *Fleet* to ſee it executed, with a Clauſe to the Sheriffs of *London* and *Middleſex*, and all other Officers to be aiding and aſſiſting.

30 *May* 1621. The Prince moved the Houſe, that the puniſhment of Whipping, and all that belonged to it to be inflicted on *Edward Floud* on Friday then next, might be ſuſpended and forborn, until the pleaſure of the Houſe were further known, and the reſt of the Puniſhment to be executed according to the former Order: and thereupon an Order was made,

made, That hereafter when any Cenſure beyond impriſonment ſhall be agreed on, Judgement thereupon be not given on the ſame day, but another day be taken to conſider thereof before any Judgement be given.

Theſe Judgements have been grounded upon Charges, ſometimes exhibited by the Commons Houſe to the Lords, ſometimes upon Charges directed by the Lords themſelves: as in the Caſe of the Earl of *Middleſex*.

A Committee being made by the Lords to conſider of Munitions *&c.* when the Committee was to make their report, a Queſtion was made, whether by the Orders of the Houſe, the Lord Treaſurer might be preſent when it was read, for that it concerned his Honor. It was agreed he might be preſent at the firſt reading; but not when the ſame ſhould be debated or handled by the Houſe, 12 *April* 1624.

A Charge was directed to be drawn up againſt him by the Committee.

15 *April*. There was a Meſſage from the Commons for a Conference touching divers Complaints againſt the Lord Treaſurer, which the Lord Keeper reported

to

to the Houſe from that Conference.

24 *April* 1624. It was reſolved, That by the ancient Cuſtoms of the Houſe, the party accuſed is to receive his Charge at the Bar.

27 *April* 1624. The Lord Treaſurer petitioned that Council might be aſſigned him; this being referred to a Committee of the Houſe, they reported, That they had peruſed many preſidents how parties complained of here have anſwered, and that they had not ſeen any preſident that any, though a Member of this Houſe, did anſwer by his Council, and that Council was denied to *Michael de la Pool* Lord Chancellor, 10 *Rich.* 2. when he required the ſame.

Thereupon anſwer was given to the Lord Treaſurer, That he might uſe what Council he pleaſed to adviſe him for his defence, but it ſtood not with the Orders of the Houſe to allow Council at the Bar in this Caſe.

When the Lord Treaſurer came to the Bar to hear his Charge, it was reſolved he was to kneel. He came alſo without his Staff.

The Witneſſes are ſworn at the Bar, and a Committee with ſome of the Judges

to attend them, appointed to take the Examinations, and many times Examinations are had before the party accuſed anſwer; yet it was reſolved 28 *April* 1621. That it is againſt the Orders of the Houſe that a Delinquent ſhould have Copies of Examinations before an Anſwer.

3 *May* 1624. It was Ordered, That Publication ſhall be made in a reaſonable time before the party accuſed make his final Anſwer; and that after Publication he may have Copies freely of all witneſſes as well againſt him as for him.

In all Cauſes as well Civil as Criminal and Capital, the Defendants if they ſhall demand it of the Houſe in due time, ſhall have their Learned Council to aſſiſt them in their defence, whether they be able by reaſon of health to anſwer in perſon or not, ſo as they chuſe Council void of juſt Exception; and if ſuch Council ſhall refuſe them, they are to be aſſigned as the Court ſhall think fit. See the Roll of Orders.

At the final Hearing of the Cauſe, the Delinquent is brought to the Bar, and there to kneel till the Lord Keeper bid him ſtand up.

If the Accuſation come from the Commons

mons, ſome of their own Members manage the Evidence and Reply.

If it begin in the Lords Houſe (as that againſt the Lord Treaſurer) the Kings Council did it. So Mr. Serjeant *Crew* opened the Charge againſt Sir *John Bennet*.

When the Cauſe is fully heard, the Lords come to a Reſolution among themſelves touching the Sentence; and that being done, they ſend to the Commons to let them know they are ready to give Judgement.

In the Caſe of the Earl of *Middleſex* Lord Treaſurer, though the Charge was by Order of the Lords Houſe (the Commons alſo having made ſome Complaints) yet a Meſſage was ſent to the Commons, that the Lords were ready to give Judgement againſt him.

The Lords being in their Robes, the Lord Treaſurer was brought to the Bar by the Gentleman Uſher and Serjeant at Arms, and kneeled till he was willed to ſtand up. Then came the Commons with their Speaker, the Serjeant at Arms attending the Speaker, immediately put down his Mace, and the Speaker in the Name of the Commons demanded Judgement,

ment, which was accordingly pronounced by the Lord Keeper.

20 *May* 1620. Ordered, That at the leaſt once before the end of every Seſſion, the Committees for the Orders of the Houſe, and Priviledges of the Lords in Parliament, do acquaint the Lords with all the Fines that have been laid that Seſsion, that thereupon their Lordſhips may uſe that power which they juſtly have to take off or mitigate ſuch Fines, either wholly or in part, according to the meaſure of the Penitency or Ability in the Offenders, or ſuffer all to ſtand, as in equity their Lordſhips ſhall finde fit. And that until every Seſsion be ended, no Eſtreat be made of ſuch Fines ſet or impoſed by Parliament, nor any Copy thereof to be made by the Clerk without ſpecial Order upon Publique Motion in full Houſe. See Order 3 *April* 1624.

28 *May* 1634. Upon a Report from the ſaid Committee, the Fine of 1000 l. impoſed in that Seſſion upon *John Morley*, was mitigated to 500 l. being impoſed for a ſcandalous Petition.

The ſame time, the Fine of 500 l. impoſed on *David Waterhouſe*, for pen-

ning

ning the ſaid Petition, was taken off.

In the Parliament 21 *Iacobi.* The Lord Treaſurer moved the Houſe, that a Writ of *Certiorari* might be awarded to the Clerk of the Parliament, to certifie the Fines impoſed in that Parliament upon *Giles Mompeſſon* late Knight, *Francis* Viſcount *St. Albans*, late Lord Chancellor, Sir *Henry Yelverton* Knight, *Francis Michel* late Knight, and *Edward Flood*, which was Ordered accordingly.

CAP.

Cap. XX.

Writs of Error.

IF erroneous Judgement were given in the Kings Bench, or in the Exchequer Chamber, upon the Statute of 27 *Eliz. cap.* 8. the party grieved had a Writ of Error returnable in Parliament, but not on Judgement given in the Common place, until the ſame were reverſed or affirmed in the Kings Bench. So it was anſwered in Parliament in the Caſe of the Biſhop of Norwich, *Rot. Parl.* 50. *Ed.* 3. *art.* 48.

Upon the Writ of Error the Lord Chief Juſtice is to bring in the Record, and a Tranſcript of it into the Parliament, and there to leave the Tranſcript, but carry back the Record. And thereupon the Errors being aſſigned (or as ſome Examples are, before the aſſigning of Errors) order is to be given that a *Scire facias* be awarded againſt the Defendant, upon whoſe Appearance and Examination of the Errors, the Judgement is either affirmed or reverſed.

After the Record thus brought in, *Cle-*

ricus

ricus Parliamenti habebit inde Custodiam, & per Dominos tantum & non per Communitatem assignabitur Seneschallus qui cum Dominis Spiritualibus & Temporalibus per consilium Justiciariorum procedet ad errorem corrigendum, 1 *H.7. fo.*20. in *Flowerdews* Case.

The Maner of proceeding herein appears in the Parliament Roll of 27 *Eliz. num.* 40.

24 *May* 1621. *Nicholas Stafford* an Irishman brought a Writ of Error in Parliament to reverse a Judgement in the Kings Bench, wherein *John Stafford* an Irishman was Defendant, touching Lands in *Ireland*. A Question was thereupon moved, to what Sheriff the Writ of *Scire facias* should go, whether to the Sheriff of *Middlesex*, or to the Sheriff of that County in *Ireland* where the Land doth lie. This was referred to the Judges.

Who upon the 25 day made report; That a Writ ought to be directed by Warrant from the Lords House to the Chief Justice of the Kings Bench in *Ireland*, requiring him by Writ out of that Court, to command the Sheriff of the County of *Wexford* (where the Lands in question do lie) to give notice to the party

ty Defendant to make his Appearance here in Parliament at a certain day appointed, to hear the Errors. Which was accordingly ordered, but the Plaintiff was directed to assigne the Errors before the Writ should issue.

In the Parliament 21 & 22 *Jacobi*. The Lord Chief Justice brought in the Record of a Judgement given in the Kings Bench, between *William Mac Donnogh* Plaintiff, and *John Stafford* Defendant *in placito transgressionis & ejectionis firmæ*, for Lands in the County of *Wexford* in *Ireland*.

The said *William Mac Donnogh* appointed *Thomas Farrar* to be his Attorney against the said *John Stafford*.

The Lord *Noel* and the Lord *Mountague* received the Warrant of Attorney, and delivered the same to the House; and then the said *Thomas Farrar* assigned the Errors and delivered the same. Whereupon it was ordered, That His Majesties Writ be awarded and directed to the Lord Chief Justice of the Kings Bench in *Ireland*, commanding him that he grant a Writ of *Scire facias* under His Majesties Seal of the Kings Bench in *Ireland*, unto the Sheriff of the

County of *Wexford*, to warn the ſaid *John Stafford* Gent. to appear before their Lordſhips at the next Seſsion of Parliament here in *England*, to hear the ſaid Record and Proces of Error in the ſaid Judgement given in the Kings Bench here in *England*, between the ſaid *William Mac Donnogh* and the ſaid *John Stafford, pro eiſd. tranſg. & ejectione firmæ, eid. Willielmo per præfat. Johannem illat.* Which was agreeable to the former Preſident grounded on the opinion of the Judges.

And accordingly the Clerk ſigned a Warrant directed to *William Ravenſcroft* Eſquire, one of the Clerks of the Pettibagg to make the ſaid Writ.

6 *July* 1625. The Lord Chief Juſtice brought in a Writ of Error to reverſe a Judgement given in the Upper-Bench on behalf of *Thomas Crowch* againſt *Edward Haynes*, and delivered the Record and Proces to the Lord Keeper.

At the riſing of the Houſe the Record was carried back again, and the Tranſcript delivered to the Clerk with the Petition ſigned by the Kings hand.

CAP.

Cap. XXI.

Decrees in Chancery, and Relief on Petitions.

PEtitions have been preſented containing Complaints againſt Decrees and Proceedings in Chancery, either charging Corruption or Injuſtice, or both, for delayes or irregular Proceedings.

Upon Conſideration of thoſe Petitions, the Lords Referrees for Petitions did uſually make Orders to refer it back to the Lord Chancellor or Lord Keeper, if the Complaint were not againſt him; and ſometimes did give Direction touching Proceedings for the Petitioners relief in particular Courts, which anſwers were reported to the Houſe, and there approved.

The Parliament being ſhortly to adjourn, 4 *June* 1621. the Earl of Bridgewater firſt of the Committees for Petitions, reported to the Houſe, that they had conſidered of ſome particulars, and an-

ſwered them, but the time not permitting their Lordſhips to anſwer them all, they had agreed what anſwer the Clerk ſhould make unto them, *viz.*

1. No ſuits to be ſtayed in Courts of Juſtice upon pretence of Petitions exhibited in Parliament, and unanſwered.

2. Decrees not to be reverſed upon Petitions exhibited in Parliament without the hearing of Councel on both parts.

3. Reviews to be made where the Judges of the Courts upon Conſideration of the Petitions ſhall finde Cauſe ſufficient, or otherwiſe to certifie the Houſe what further Courſe may be taken with the Petitioners.

The Petitions to be kept by the Clerk of the Parliament, and he to attend the Judges of the Courts as the Petitions were called for, and to reſume the Petition from the Judges, to be kept with the Judges Reſolution thereupon ſignified, and to preſent the Petitions again to the Houſe at the next meeting.

Which Directions being read, the Houſe ordered the ſame to be obſerved accordingly.

If

If the Complaints were charges of Crime againſt the Judges themſelves for Corruption or Injuſtice, the maner of Proceedings was as is before ſet down in the Caſe of the Lord Chancellor *Bacon*, the Lord Treaſurer Earl of *Middleſex*, againſt whom alſo damages were awarded to be given to the particular perſons wronged.

If the Complaint were againſt the Decree it ſelf, and relief ſought againſt the party on whoſe behalf it was made, there were uſually Bills preferred for reverſing thoſe Decrees, or other Courſe taken, as appears in the Caſes following:

Die Lunæ. 3 *Decemb.* 1621.

The Lord *Sheffeild* preſented to the Houſe a Petition from Sir *John Bourchier*, which was read *in hæc verba:*

To the Right Honorable the Lords Spiritual and Temporal in the High Court of Parliament aſſembled.

The humble Petition of Sir *John Bourchier* Knight;

Humbly ſheweth,

THat the Petitioner bought a Leaſe 45 *Eliz.* by which he was to have for xxj. years 100 l. *per Annum*, and for ſecuring thereof had a Recognizance of 1400 l. yet by Extents, and other deceitful and indirect dealings, hath in all the times paſt received onely 600 l. moſt of which he hath been forced to ſpend in Suits.

And being lately poſſeſſed of Lands by Extent under the Great Seal of *England*,

land, lyable to the ſaid Recognizance of 1400 l. by occaſion whereof there were croſs Suits in Chancery between the Petitioner, one *John Mompeſſon* and others appointed to be heard the Fifth of *November* laſt, before the Right Honorable the Lord Keeper, who haſting the Order by reaſon of the day, made the ſame very greatly to the Petitioners prejudice, who that afternoon petitioned his Lordſhip for a further hearing, that the proofs extant in the Court might be read, which then was by the ſhortneſs of time and ſuddenneſs of the Order prevented, which though his Lordſhip denied, yet allowed your Petitioner his Appeal to your Lordſhips. Since which time the Petitioner both by himſelf, and ſome others, hath in all humility ſought to be heard, offering to loſe what is already decreed, if his Lordſhip take true notice of the Cauſe, found not reaſon in Juſtice and Equity to afford the Petitioner much more, yet cannot prevail in a Suit ſo reaſonable.

Two days after which Order ſo given, the Petitioner was alſo in the ſame Court ordered to pay money to another upon a

Motion, there being then no Bill in Court, which is ſince decreed, though not to be warranted by the Ancient Juſtice or ordinary Courſe of Proceedings in Chancery. Now for that it may tend to the utter undoing of any man to be ſhut by Decrees before the cauſe be fully opened or underſtood, or to be bound by ſuch as are not duly granted,

The Petitioner doth therefore in all humility appeal unto your Lordſhips, humbly deſiring that as well for Juſtice ſake and for the future good of others, as the Petitioners relief, your Lordſhips will be pleaſed to hear and judge the ſame.

Upon

Upon reading the Petition, and ſome debate, Ordered that the Lords Committees for Priviledges, &c. ſhall conſider of this Petition, whether it be a formal Appeal for matter of Juſtice or no. And all the Judges are to attend the Lords therein.

10 *Decemb.* 1621. The Lord Archbiſhop of Canterbury (the firſt of the Committees for Priviledges, to whom was referred the Petition of Sir *John Bourchier* Knight, to be conſidered, whether it were a formal Appeal or no) reported that divers Lords appointed to ſearch for Preſidents, cannot finde that the word *Appeal* is uſual in any Petition for any Matter to be brought in hither, but they finde that all Matters complained of here were by Petition onely; the Ancient accuſtomed form thereof being, *To the King and His Great Council.* And that they cannot finde but onely one Preſident of this Nature, which was a Complaint by Petition againſt *Michael de la Poole* Lord Chancellor, for matter of Corruption.

The Houſe thereupon the next day examined the buſineſs, as to the haſty hearing

hearing of the Cauſe, but did not meddle at all with the merits of the Cauſe, or order any thing therein.

26 *May* 1624. A Bill exhibited into the Lords Houſe for reverſing a Decree in the Court of Requeſts between *Edwards* and *Edwards*, twice read and committed.

28 *May* 1624. A Bill by the Company of Feltmakers exhibited into the Lords Houſe, for reverſing a Decree in Chancery, made at the ſuit of *Chriſtopher Warwick*, twice read and committed.

28 *May* 1624. The Lords Committees for Petitions report a Petition of *William Mathew* of *Landaſofe* which was read, and the anſwer thereunto conceived by the Lords Committees, was reported to the Houſe, *viz.*

That upon Conſideration of the whole cauſe they finde *William Mathews* principal debt to be 5260 l. which they hold fit to be paid at ſeveral days therein limited, and the whole land to ſtand bound for it, and that the execution thereof ſhould be recommended to the Court of Chancery.

George

George Mathews Petition was read, being in theſe words. *viz.*

To the Right Honorable the Lords, &c.

The humble Petition of *George Mathew* Eſquire.

Humbly ſheweth your Lordſhips,

THat your Petitioners Decree now queſtioned, hath been ſeveral times ſubmitted unto by *William Mathew*, never queſtioned during the life of the Petitioners Father. And his Majeſtie upon information by Petitions on both ſides declared, that he ſaw no cauſe for queſtioning thereof.

And it was thereupon ordered, That to hear a Cauſe after a Submiſſion (no Corruption appearing) would be a dangerous Preſident.

In Conſideration whereof, and for that the Decree ſtands queſtioned onely by Petition, nor was your now Petitioner ever Party to any Suit, nor is there any Bill depending in any Court, he being informed

informed by Council, *That it hath been the Courſe of this Honorable Houſe to reverſe Decrees but by Bill legally exhibited*, eſpecially where no Corruption is proved.

He moſt humbly beſeecheth that he may not be concluded, and a Decree ſubmitted unto overthrown, and the ſmall remainder of his Ancient Inheritance taken from him by Order of this Honorable Houſe onely upon a Petition.

He moſt humbly ſubmitteth himſelf herein to your Lordſhips, &c.

The Petition being read and conſidered of, ſome Lords were appointed by the Houſe to ſet down an Order in this Cauſe.

29 *May* 1624.

The Lords Committees reported the ſame to the Houſe *in hæc verba.*

The Lords of Parliament do order that the Cauſe depending between *William Mathew* and *George Mathew* ſhall be reviewed in Chancery by the Lord Keeper, aſſiſted by ſuch of the Lords of

of Parliament as ſhall be named by the Houſe, and by any two of the Judges whom the Lord Keeper ſhall name. For which end the Lord Keeper is to be an humble Suitor unto his Majeſty for a Commiſſion unto himſelf and the Lords that ſhall be named by the Houſe, for the ſaid Review and final determination of the Cauſe as to them ſhall appear juſt and equal.

Which Order being read, the Houſe approved thereof, named ſeveral Lords to be joyned in the Commiſſion, and ordered the ſame to be heard and determined accordingly the beginning of *Michaelmas* Term then next.

Cap. XXII.

Other Priviledges of the Lords as a Houſe and as ſingle Barons.

BEſides theſe Priviledges before-mentioned, there were divers others concerning them as a Body: as, their making Proxies, paſſing of Bills and Judgements without aſſent of the Lords Spiritual, their appointing Judges out of themſelves for Examination of Delayes of Judgements in other Courts, and their Tenants of Ancient Tenancies being diſcharged of paying their Charges of Knights of the Shire.

As alſo ſuch as reſpected them as ſingle Barons (which were alſo communicated to Baroneſſes:) as, concerning

1. Their Oaths and Proteſtations to be taken upon Honor.

2. Their Trial by Peers.

3. *Scandala magnatum.*

4. Proces againſt them in Engliſh Courts.

5. Their Number of Chaplains.

6. Their

6. Their retaining of Strangers.

7. Clergy without reading.

8. Liberty of Hunting in the Kings Foreſts.

9. Amerciaments.

10. No Proces in a Civil Action to be awarded againſt their Perſons.

11. A Knight to be returned in every Pannel where a Baron is party.

12. No day of Grace againſt a Baron.

13. Power to make Deputies in places of Truſt committed to them, without ſpecial power.

Of which more may be ſaid hereafter, it being not the preſent purpoſe to treat of them more largely.

There are likewiſe divers other matters concerning the Practiſe and Method of Proceedings in the ſaid Houſe worthy of Obſervation.

Cap. XXIII.

Of Adjourning, Proroguing and Diſſolving Parliaments.

ADjournments and Prorogations have been, either by the Kings Command being perſonally preſent, or by Commiſſion under the Great Seal (beſides the ordinary Adjourning by the Houſe it ſelf, or by mutual conſent of both Houſes for ſome few days.)

4 & 5 *Philip & Mary*, on the twentieth of *January* it is entred, That after the Royal Aſſent to the Bills by the Queen being preſent, the Lord Chancellor prorogued the Parliament until the fifth of *November* next.

18 *Eliz.* the ſecond Seſſion, 14 *March* 1575. The Queen being preſent, commanded the Parliament to be prorogued until the fifth of *November* following.

The Entries in the Books are very numerous of this nature: *Dominus Cuſtos ex Mandato Dominæ Reginæ*: Or, *Ex*

Ex juſſu Domini Regis, prorogavit præſens Parliamentum uſque &c.

The difference between Adjournments by the Houſe, and Adjournments by Commiſſion, appears in a Report made to the Houſe by Maſter Attorney-General, 1 *June* 1621. upon a Reference from the Houſe for that purpoſe, who read divers preſidents out of ſeveral Journal-Books of the Form of Adjournment of Parliaments, and ſhewed the difference between the Adjournment and Prorogation; and how that the word *Prorogare* was often uſed for *Adjournare*, but the word *Adjournare* was never uſed for *Prorogation* of a Parliament: He ſhewed alſo that a Parliament being adjourned by the Houſe, all Committees were of force, and the Bills remained *in ſtatu quo prius*; but an Adjournment by Commiſſion from the King, did determine all Committees, and they did ceaſe till the next ſitting of the Court, nevertheleſs the Bills were preſerved *in ſtatu quo prius*.

Prorogation, in the proper and ſtrict ſenſe, is when after a Seſſion ended by the Royal Aſſent unto Bills, the Parlia-

ment is continued over for another Seſsion, as in the firſt Parliament of King *James* there were five Seſsions; the Parliament laſted about Seven years; which as often as the King was preſent, was done by Command as before, elſe by Commiſsion.

6 *December* 1620. The Lords being aſſembled in their Robes, ſent the Gentleman Uſher to ſignifie to the Commons that the Lords expected their coming up, to whom the Kings pleaſure was to be further ſignified. The Speaker and Commons being come into the Houſe, and at the Bar, the Lord Chancellor declared the King had granted a Commiſsion to divers Lords to prorogue that Parliament for ſome time, and then delivered the Commiſsion to the Clerk of the Parliament to be read publiquely (every one of the Lords Commiſsioners ſtanding up in their places as their Names were read) and thereupon the ſaid Commiſsioners did prorogue the ſaid Parliament until the ninth of *February* following.

When there was onely an Adjournment by Commiſsion, the Commons were

were not ſent for, but the Writ being firſt read in the Houſe of Lords, was afterward ſent down to the Commons. So 19 *Decemb.* 1621. the Commiſsion for the Adjournment being read, the LORDS adjourned their Houſe.

After which Adjournment the Commiſsion was delivered to Maſter Juſtice *Winch* and Maſter Juſtice *Jones*, who were ſent therewith to the Commons, and commanded to ſignifie unto them that the Parliament is adjourned by vertue thereof, by the Commiſsioners therein named, who returned anſwer by the ſaid Meſſengers, that they would adjourn their Houſe alſo.

The Maner of diſſolving a Parliament hath been either when the King was preſent in full Parliament with the Lords and Commons, by whoſe Command the Lord Chancellor, or Lord Keeper, did pronounce it in theſe words, *My Lords and Gentlemen, His Majeſty doth diſſolve this preſent Parliament.*

Or elſe it was done by Writ directed to certain Lords; which Writ

being made known to the Houſe, the Proceeding is ſet down in theſe words, in the Journal of the Parliament of 12° *Jacobi*.

7 *June*, 1614. The Lords being aſſembled in their Robes, after Prayers ended, the Commiſſioners taking notice of his Majeſties Commiſſion for diſſolving the Parliament, left their proper Seats, went up and ſate on a Bench or Form prepared for them, and placed overthwart the Houſe, between the Chair of Eſtate and the Wooll-ſack, whereon the Lord Chancellor ſitteth; and the Gentleman Uſher being ſent for the Commons, who being come with their Speaker, the Lord Chancellor declared, That His Majeſty having ordained His Parliament to be holden, and begin the 5th of *April* laſt, had now thought fit to diſſolve the ſame, and for that purpoſe had granted a Commiſſion to certain Lords: which Commiſſion the Lord Chancellor delivered to the Clerk of the Parliament; who returning

ing to his accuſtomed place, read it publiquely, and thereupon the Commiſsioners did diſſolve the Parliament.

FINIS.